

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DAVID W. NAIL,

Plaintiff,

v.

J.C. GUTIERREZ, et al.,

Defendants.

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CAUSE NO.: 1:06-CV-292

OPINION and ORDER

Plaintiff David W. Nail, proceeding *pro se* and *in forma pauperis*, filed a “Motion for a Transcribed Copy of the Proceedings of Tuesday, November 20, 2007 Hearing,” on November 29, 2007. (Docket # 119.) The Plaintiff did not include in his motion any reason why he needs a transcribed copy, although during the hearing he requested one and indicated that he wanted to be certain about the dates that had just been established.

The mere fact that the Plaintiff is proceeding *in forma pauperis* does not entitle him to a transcript of all proceedings. *E.g., O’Neal v. County of Nassau*, 992 F. Supp. 524, 535-36 (E.D.N.Y. March 31, 1997) (“The granting of plaintiff’s prior request to proceed *in forma pauperis* in the district court does not automatically entitle him to a free copy of all proceedings in the district court”) (*citing McCarthy v. Bronson*, 906 F.2d 835 (2d Cir. 1990)); *see also Crossley v. U.S.*, 538 F.d 508, 509 (2d Cir. 1976) (“[A]n indigent federal prisoner has no unconditional right based upon the Due Process Clause of the Fifth Amendment to obtain at public expense transcripts of the prior judicial proceedings”); *Niccolai v. Warden, MCC*, 1994 WL 481918 (S.D.N.Y. Sept. 2, 1994) (“[In] a civil case, a party proceeding *in forma pauperis* does not have a Constitutional or statutory right to a free transcript or tape, and the

judicial budget includes no funds for such purpose.”); *Jaffe v. United States*, 246 F.2d (2d Cir. 1957).

In the instant case, the Court has already provided the Plaintiff with a docket sheet which records the dates he is apparently seeking to confirm. Therefore, since the Plaintiff has not otherwise justified his need for a transcribed copy of the November 20, 2007, hearing, and since he is not entitled to a free one, his request is DENIED.

SO ORDERED on November 30th, 2007.

S/ROGER B. COSBEY
Roger Cosbey
United States Magistrate Judge